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JUL 20 2004

In re Application of  
Shoichi Ibaraki, et al.  
Application No. 10/724,691  
Filed: December 2, 2003  
Attorney Docket No. 00862.023345

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition filed May 3, 2004, requesting that the above-identified application be accorded a filing date of July 25, 2003.

The application was deposited on December 2, 2003. However, on March 1, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Non-Provisional Application requiring an executed oath or declaration and stating that, while a filing date had been accorded the application papers, a drawing of Figure 9 described in the specification was omitted from the application.

In response, on May 3, 2004, an executed declaration and the present petition were filed. Petitioner argues that twelve (18) sheets of drawings were included with the application papers deposited on December 2, 2003. As evidence thereof, petitioner submitted a copy of his postcard receipt. Petitioner requests that the application, including a drawing of Figure 9, be accorded a filing date of December 2, 2003. A copy of one sheet of drawing containing Figure 9 was also submitted.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO. See MPEP 503. A review of the postcard receipt reveals that: (1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on December 2, 2003; (2) it specifically identifies the items being filed, including *inter alia* "18 sheets of formal drawing"; and (3) it lacks any annotation of non-receipt of any item denoted on the postcard.

The application papers already considered received in the Office on December 2, 2003, were reviewed along with the missing page of drawing submitted on petition. These papers together constitute the items described on the postcard receipt as "18 sheets of formal drawing". Petitioner has shown that sheet 9/18 containing a drawing of Figure 9 was among the items present in the application on the date of deposit and should be included in the original disclosure.

Accordingly, the petition is **GRANTED**.

No petition fee has been charged to counsel's deposit account, nor is one due.

In view of the above, the petition is **GRANTED**. The one (1) sheet of drawing containing Figure 9 submitted with the petition will be used for examination purposes.

The application is being returned to Initial Patent Examination Division for:

- (1) further processing with a filing date of December 2, 2003, using the declaration filed May 3, 2004; and the application papers filed December 3, 2003 and the one (1) sheet of drawing filed May 3, 2004; and
- (2) an indication on the bibliographic data sheet that twelve (18) sheets of drawings were included on filing.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to Initial Patent Examination Division processing should be directed to their hotline at (703) 308-1202.



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for Patent Examination